

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 211

SENATE BILL 1259

AN ACT

AMENDING SECTIONS 42-5001 AND 42-5009, ARIZONA REVISED STATUTES; RELATING TO
HEALTH CARE FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to
3 read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or corporate,
8 engaged in or caused to be engaged in with the object of gain, benefit or
9 advantage, either directly or indirectly, but not casual activities or sales.

10 2. "Distribution base" means the portion of the revenues derived from
11 the tax levied by this article and articles 5, 8 and 9 of this chapter
12 designated for distribution to counties, municipalities and other purposes
13 according to section 42-5029, subsection D.

14 3. "Engaging", when used with reference to engaging or continuing in
15 business, includes the exercise of corporate or franchise powers.

16 4. "Gross income" means the gross receipts of a taxpayer derived from
17 trade, business, commerce or sales and the value proceeding or accruing from
18 the sale of tangible personal property or service, or both, and without any
19 deduction on account of losses.

20 5. "Gross proceeds of sales" means the value proceeding or accruing
21 from the sale of tangible personal property without any deduction on account
22 of the cost of property sold, expense of any kind or losses, but cash
23 discounts allowed and taken on sales are not included as gross income.

24 6. "Gross income" and "gross proceeds of sales" do not include goods,
25 wares or merchandise, or value thereof, returned by customers if the sale
26 price is refunded either in cash or by credit, nor the value of merchandise
27 traded in on the purchase of new merchandise when the trade-in allowance is
28 deducted from the sales price of the new merchandise before completion of the
29 sale.

30 7. "Gross receipts" means the total amount of the sale, lease¹ or
31 rental price, as the case may be, of the retail sales of retailers, including
32 any services that are a part of the sales, valued in money, whether received
33 in money or otherwise, including all receipts, cash, credits and property of
34 every kind or nature, and any amount for which credit is allowed by the
35 seller to the purchaser without any deduction from the amount on account of
36 the cost of the property sold, materials used, labor or service performed,
37 interest paid, losses or any other expense. Gross receipts do not include
38 cash discounts allowed and taken nor the sale price of property returned by
39 customers if the full sale price is refunded either in cash or by credit.

40 8. "Person" or "company" includes an individual, firm, partnership,
41 joint venture, association, corporation, estate or trust, this state, any
42 county, city, town, district, other than a school district, or other
43 political subdivision and any other group or combination acting as a unit,
44 and the plural as well as the singular number.

1 9. "Qualifying community health center":

2 (a) Means an entity that is recognized as nonprofit under SECTION
3 501(c)(3) of the United States internal revenue code, that is a
4 community-based, primary care clinic that has a community-based board of
5 directors and that is either:

6 ~~(a)~~ (i) The sole provider of primary care in the community.

7 ~~(b)~~ (ii) A nonhospital affiliated clinic that is located in a
8 federally designated medically underserved area in this state.

9 (b) INCLUDES CLINICS THAT ARE BEING CONSTRUCTED AS QUALIFYING
10 COMMUNITY HEALTH CENTERS.

11 10. "Qualifying health care organization" means an entity that is
12 recognized as nonprofit under section 501(c) of the United States internal
13 revenue code and that uses, SAVES OR INVESTS at least eighty per cent of all
14 monies that it receives from all sources each year only for health and
15 medical related educational and charitable services, as documented by annual
16 financial audits prepared by an independent certified public accountant,
17 performed according to generally accepted accounting standards and filed
18 annually with the department. MONIES THAT ARE USED, SAVED OR INVESTED TO
19 LEASE, PURCHASE OR CONSTRUCT A FACILITY FOR HEALTH AND MEDICAL RELATED
20 EDUCATION AND CHARITABLE SERVICES ARE INCLUDED IN THE EIGHTY PER CENT
21 REQUIREMENT.

22 11. "Qualifying hospital" means ANY OF THE FOLLOWING:

23 (a) A licensed hospital which is organized and operated exclusively
24 for charitable purposes, no part of the net earnings of which inures to the
25 benefit of any private shareholder or individual.

26 (b) A licensed nursing care institution or a licensed residential care
27 institution or a residential care facility operated in conjunction with a
28 licensed nursing care institution or a licensed kidney dialysis center, which
29 provides medical services, nursing services or health related services and
30 is not used or held for profit.

31 (c) A hospital, nursing care institution or residential care
32 institution which is operated by the federal government, this state or a
33 political subdivision of this state.

34 (d) A FACILITY THAT IS UNDER CONSTRUCTION AND THAT ON COMPLETION WILL
35 BE A FACILITY UNDER SUBDIVISION (a), (b) OR (c) OF THIS PARAGRAPH.

36 12. "Retailer" includes every person engaged in the business classified
37 under the retail classification pursuant to section 42-5061 and, when in the
38 opinion of the department it is necessary for the efficient administration
39 of this article, includes dealers, distributors, supervisors, employers and
40 salesmen, representatives, peddlers or canvassers as the agents of the
41 dealers, distributors, supervisors or employers under whom they operate or
42 from whom they obtain the tangible personal property sold by them, whether
43 in making sales on their own behalf or on behalf of the dealers,
44 distributors, supervisors or employers.

1 13. "Sale" means any transfer of title or possession, or both,
2 exchange, barter, lease or rental, conditional or otherwise, in any manner
3 or by any means whatever, including consignment transactions and auctions,
4 of tangible personal property or other activities taxable under this chapter,
5 for a consideration, and includes:

6 (a) Any transaction by which the possession of property is transferred
7 but the seller retains the title as security for the payment of the price.

8 (b) Fabricating tangible personal property for consumers who furnish
9 either directly or indirectly the materials used in the fabrication work.

10 (c) Furnishing, preparing or serving for a consideration any tangible
11 personal property consumed on the premises of the person furnishing,
12 preparing or serving the tangible personal property.

13 14. "Solar daylighting" means a device that is specifically designed
14 to capture and redirect the visible portion of the solar beam, while
15 controlling the infrared portion, for use in illuminating interior building
16 spaces in lieu of artificial lighting.

17 15. "Solar energy device" means a system or series of mechanisms
18 designed primarily to provide heating, to provide cooling, to produce
19 electrical power, to produce mechanical power, to provide solar daylighting
20 or to provide any combination of the foregoing by means of collecting and
21 transferring solar generated energy into such uses either by active or
22 passive means, including wind generator systems that produce electricity.
23 Solar energy systems may also have the capability of storing solar energy for
24 future use. Passive systems shall clearly be designed as a solar energy
25 device, such as a trombe wall, and not merely as a part of a normal
26 structure, such as a window.

27 16. "Tangible personal property" means personal property which may be
28 seen, weighed, measured, felt or touched or is in any other manner
29 perceptible to the senses.

30 17. "Tax year" or "taxable year" means either the calendar year or the
31 taxpayer's fiscal year, if permission is obtained from the department to use
32 a fiscal year as the tax period instead of the calendar year.

33 18. "Taxpayer" means any person who is liable for any tax which is
34 imposed by this article.

35 19. "Wholesaler" or "jobber" means any person who sells tangible
36 personal property for resale and not for consumption by the purchaser.

37 Sec. 2. Section 42-5009, Arizona Revised Statutes, is amended to read:

38 42-5009. Certificates establishing deductions; liability for
39 making false certificate

40 A. A person who conducts any business classified under article 2 of
41 this chapter may establish entitlement to the allowable deductions from the
42 tax base of that business by both:

43 1. Marking the invoice for the transaction to indicate that the gross
44 proceeds of sales or gross income derived from the transaction was deducted
45 from the tax base.

1 2. Obtaining a certificate executed by the purchaser indicating the
2 name and address of the purchaser, the precise nature of the business of the
3 purchaser, the purpose for which the purchase was made, the necessary facts
4 to establish the appropriate deduction and the tax license number of the
5 purchaser to the extent the deduction depends on the purchaser conducting
6 business classified under article 2 of this chapter and a certification that
7 the person executing the certificate is authorized to do so on behalf of the
8 purchaser. The certificate may be disregarded if the seller has reason to
9 believe that the information contained in the certificate is not accurate or
10 complete.

11 B. A person who does not comply with subsection A of this section may
12 establish entitlement to the deduction by presenting facts necessary to
13 support the entitlement, but the burden of proof is on that person.

14 C. The department may prescribe a form for the certificate described
15 in subsection A of this section. Under such rules as it may prescribe, the
16 department may also describe transactions with respect to which a person is
17 not entitled to rely solely on the information contained in the certificate
18 provided for in subsection A of this section but must instead obtain such
19 additional information as required by the rules in order to be entitled to
20 the deduction.

21 D. If a seller is entitled to a deduction by complying with subsection
22 A of this section, the department may require the purchaser which caused the
23 execution of the certificate to establish the accuracy and completeness of
24 the information required to be contained in the certificate which would
25 entitle the seller to the deduction. If the purchaser cannot establish the
26 accuracy and completeness of the information, the purchaser is liable in an
27 amount equal to any tax, penalty and interest which the seller would have
28 been required to pay under this article if the seller had not complied with
29 subsection A of this section. Payment of the amount under this subsection
30 exempts the purchaser from liability for any tax imposed under article 4 of
31 this chapter. The amount shall be treated as a transaction privilege tax to
32 the purchaser and as tax revenues collected from the seller in order to
33 designate the distribution base for purposes of section 42-5029.

34 E. If a seller is entitled to a deduction by complying with subsection
35 B of this section, the department may require the purchaser to establish the
36 accuracy and completeness of the information provided to the seller that
37 entitled the seller to the deduction. If the purchaser cannot establish the
38 accuracy and completeness of the information, the purchaser is liable in an
39 amount equal to any tax, penalty and interest that the seller would have been
40 required to pay under this article if the seller had not complied with
41 subsection B of this section. Payment of the amount under this subsection
42 exempts the purchaser from liability for any tax imposed under article 4 of
43 this chapter. The amount shall be treated as a transaction privilege tax to
44 the purchaser and as tax revenues collected from the seller in order to
45 designate the distribution base for purposes of section 42-5029.

1 F. The department may prescribe a form for a certificate used to
2 establish entitlement to the deductions described in section 42-5061,
3 subsection A, paragraph 48 and section 42-5063, subsection B, paragraph 3.
4 Under rules the department may prescribe, the department may also require
5 additional information for the seller to be entitled to the deduction. If
6 a seller is entitled to the deductions described in section 42-5061,
7 subsection A, paragraph 48 and section 42-5063, subsection B, paragraph 3,
8 the department may require the purchaser who executed the certificate to
9 establish the accuracy and completeness of the information contained in the
10 certificate that would entitle the seller to the deduction. If the purchaser
11 cannot establish the accuracy and completeness of the information, the
12 purchaser is liable in an amount equal to any tax, penalty and interest that
13 the seller would have been required to pay under this article. Payment of
14 the amount under this subsection exempts the purchaser from liability for any
15 tax imposed under article 4 of this chapter. The amount shall be treated as
16 a transaction privilege tax to the purchaser and as tax revenues collected
17 from the seller in order to designate the distribution base for purposes of
18 section 42-5029.

19 G. IF A SELLER CLAIMS A DEDUCTION UNDER SECTION 42-5061, SUBSECTION
20 A, PARAGRAPH 25 AND ESTABLISHES ENTITLEMENT TO THE DEDUCTION WITH AN
21 EXEMPTION LETTER THAT THE PURCHASER RECEIVED FROM THE DEPARTMENT AND THE
22 EXEMPTION LETTER WAS BASED ON A CONTINGENT EVENT, THE DEPARTMENT MAY REQUIRE
23 THE PURCHASER THAT RECEIVED THE EXEMPTION LETTER TO ESTABLISH THE
24 SATISFACTION OF THE CONTINGENT EVENT WITHIN A REASONABLE TIME. IF THE
25 PURCHASER CANNOT ESTABLISH THE SATISFACTION OF THE EVENT, THE PURCHASER IS
26 LIABLE IN AN AMOUNT EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE SELLER
27 WOULD HAVE BEEN REQUIRED TO PAY UNDER THIS ARTICLE IF THE SELLER HAD NOT BEEN
28 FURNISHED THE EXEMPTION LETTER. PAYMENT OF THE AMOUNT UNDER THIS SUBSECTION
29 EXEMPTS THE PURCHASER FROM LIABILITY FOR ANY TAX IMPOSED UNDER ARTICLE 4 OF
30 THIS CHAPTER. THE AMOUNT SHALL BE TREATED AS A TRANSACTION PRIVILEGE TAX TO
31 THE PURCHASER AND AS TAX REVENUES COLLECTED FROM THE SELLER IN ORDER TO
32 DESIGNATE THE DISTRIBUTION BASE FOR PURPOSES OF SECTION 42-5029.

**THIS BILL HAVING REMAINED WITH THE GOVERNOR FIVE DAYS, SUNDAY EXCLUDED
AND THE LEGISLATURE BEING IN SESSION, IT HAS BECOME A LAW THIS
23RD DAY OF APRIL, 2001.**

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2001.

Passed the House April 16, 2001,

by the following vote: 49 Ayes,

7 Nays, 4 Not Voting

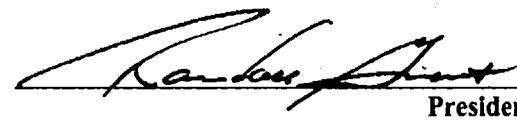

Speaker of the House

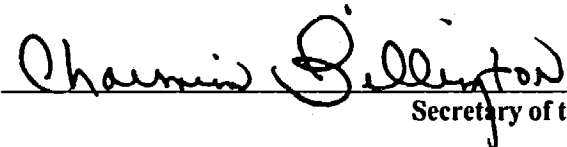

Chief Clerk of the House

Passed the Senate March 20, 2001,

by the following vote: 26 Ayes,

4 Nays, 0 Not Voting


President of the Senate

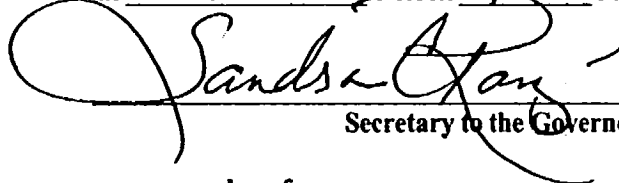

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of April, 2001,

at 4:53 o'clock P M.


Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2001,

at 4:50 o'clock P M.

Secretary of State

S.B. 1259